

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 1-3, 5-13 and 15-28 are in this case. Claims 1-3, 5-13 and 15-28 have been rejected under § 102(b) or § 103(a). Independent claim 15 has now been amended. Independent claim 1 and dependent claims 2, 3 and 5-13 have been canceled.

Independent claim 15 is drawn to a combination of an untethered intravascular device with a retention configuration as claimed and an associated deployment system for minimally invasive deployment of the untethered intravascular device within a vessel. An untethered device as now claimed is neither taught nor in any way suggested by the art of record in this case.

Telephone Interview Summary

Reference is made to a telephone interview conducted on September 13, 2005, between Examiner Sarah Webb for the PTO and Mr. Daniel Michaels, speaking under the auspices of Dr. Mark Friedman, for the Applicant. The interview addressed the § 102(b) rejection of independent claim 15 over Middleman et al. Informal agreement was reached that claim 15 would be allowable over Middleman et al. subject to a minor amendment as discussed below.

The Applicant pointed out that the cited Middleman et al. reference does not seem to disclose any untethered intravascular device as now claimed, i.e., where the device is retained in position primarily by contact with the inner wall of the vessel and without connection to a guidewire or the like.

After reconsideration, the Examiner indicated that she agreed with the argument presented, and that the § 102(b) rejection over Middleman et al. would be withdrawn on filing of a written response presenting this argument.

The Examiner requested that the claim language be further clarified to avoid a source of potential confusion. Specifically, the Examiner pointed out correctly that one of the options for deployment of the device is by temporary attachment to a delivery device such that the intravascular device is not necessarily untethered prior to delivery. To avoid any possible confusion, the claim language has now been amended by addition of the words after deployment to clarify that the recited feature of being “untethered” is only required after deployment. This leaves open the options of the device being either temporarily tethered or untethered during the deployment procedure. This change was agreed upon with the Examiner.

In order to simplify the issues before the Examiner, the Applicant expressed the intention to cancel independent claim 1 and its dependents without prejudice.

In view of the above agreement and the accompanying amendment canceling claims 1-3 and 5-13 and amending claim 15 as discussed, the Applicant believes that all outstanding issues have been resolved and that the application is in condition for allowance.

The Applicant thanks the Examiner for her helpfulness in this matter.


§ 102(b) & § 103(a) Rejections

The Examiner has rejected claims 1-3, 6, 15-19, 21 and 28 under § 102(b) as being anticipated by Middleman et al. (US 5720754). The Examiner has also rejected claims 5, 7, 9-13, 20, 22 and 24-27 under § 103(a) as being unpatentable over Barbut et al. (US 5769816) in view of Middleman et al. The Examiner's rejections are respectfully traversed.

As discussed above in the context of the telephone interview summary, agreement was reached with the Examiner that the "untethered" language of independent claim 15 distinguishes over the art cited by the Examiner. The amendment requested by the Examiner to claim 15 in order to further clarify the intent has been implemented as discussed. All claims not dependent from claim 15 have now been canceled.

In view of the above amendments and remarks it is respectfully submitted that independent claim 15, and hence also dependent claims 16-28, are in condition for allowance. Prompt notice of allowance is respectfully and earnestly solicited.

Respectfully submitted,



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